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ENVIRONMENTAL PROTECTION

DIVISION OF FISH AND WILDLIFE

Endangered and Nongame Species Program

Conserve Wildlife Matching Grants Program

Proposed Readoption: N.J.A.C. 7:5

Authorized By: Lisa P. Jackson, Commissioner, Department of Environmental Protection.

Authority: N.J.S.A. 39:3-33.11.

Calendar reference: See summary below for explanation of exception to calendar requirement.

DEP Docket Number: ??-06-??/628

Proposal Number: PRN.

Submit written comments by January 5, 2007 to:

Gary Brower, Esq.

Attn: DEP Docket Number 18-06-09/628

Office of Legal Affairs

Department of Environmental Protection

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The Department of Environmental Protection (Department) requests that commenters submit comments on disk or CD as well as on paper. Submission of a disk or CD is not a

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requirement. The Department prefers Microsoft Word 6.0 or above. Macintosh™ formats should not be used. Each comment should be identified by the applicable N.J.A.C. citation, with the commenter's name and affiliation following the comment.

This rule proposal can be viewed or downloaded from the Department's website at

<http://www.state.nj.us.dep>.

The agency proposal follows:

Summary

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement under N.J.A.C. 1:30-3.3(a)5.

The Department is proposing to readopt without change the Conserve Wildlife Matching Grant Program rules at N.J.A.C. 7:5. In accordance with the "sunset" provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., the Conserve Wildlife Matching Grant Program rules were due to expire on September 17, 2006. The expiration date for N.J.A.C. 7:5 has been extended by 180 days to March 16, 2007 pursuant to N.J.S.A. 52:14B-5.1c. The Department has reviewed N.J.A.C. 7:5 and determined the rules to be necessary, reasonable and proper for the purposes for which they were originally promulgated.

N.J.A.C. 7:5 contain the procedures for applying for grants through the Division of Fish and Wildlife's Endangered and Nongame Species Program (ENSP) pursuant to N.J.S.A. 39:3-33.11, Renewal Fee for Wildlife Conservation License Plates. The grants are for endangered and nongame wildlife conservation projects proposed by nonprofit organizations.

The rules proposed for readoption consist of four subchapters, as described below.

N.J.A.C. 7:5-1, General Information

N.J.A.C. 7:5-1.1 provides that the program is administered through the ENSP Endangered and Nongame Species Program. N.J.A.C. 7:5-1.2 provides that the rules are to be liberally construed to allow the Department to achieve the intent of the enabling legislation.

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N.J.A.C. 7:5-1.3 sets forth definitions of the terms used in the rules. N.J.A.C. 7:5-1.4 is a severability provision.

N.J.A.C. 7:5-2, Eligibility for Conserve Wildlife Matching Grants

N.J.A.C. 7:5-2.1 provides that any nonprofit organization is eligible to apply for a Conserve Wildlife matching grant. As defined at N.J.A.C. 7:5-1.3, "nonprofit organization" means an organization with an Internal Revenue Service 501(c)3 or 501(c)4 exemption. N.J.A.C. 7:5-2.2 describes the types of projects that will be funded and lists examples of eligible projects. Grant funding must be expended in New Jersey and projects must be completed within one year of approval. A final report is required at the completion of the project.

N.J.A.C. 7:5-3, Allocation of Conserve Wildlife Matching Grant Funding

N.J.A.C. 7:5-3.1 addresses the availability of funding. Funding is guaranteed only after a project agreement has been executed by the Department and funds are subsequently obligated by the Department to the applicant for a particular project. N.J.A.C. 7:5-3.2 addresses ranking criteria for project selection. Projects will be ranked according to the presence of broad, outside support, responsiveness to regional as well as local needs, conformance to project criteria, the project's ability to raise public awareness and the expected results. N.J.A.C. 7:5-3.3 provides that the minimum matching grant is \$1,000 and the maximum matching grant is \$3,500. The ENSP's contribution shall not exceed 50 percent of the cost of the project. N.J.A.C. 7:5-3.4 provides that grant funding will be released to the grantee upon completion of the project by the applicant and compliance with the terms of the grant agreement. N.J.A.C. 7:5-3.5 provides that at least 25 percent of the grantee's share of funding shall be in a dollar amount; the remainder may be in-kind support.

N.J.A.C. 7:5-4, Application and Project Procedures

N.J.A.C. 7:5-4.1 provides that notice of funding availability and the application period for grants will be published in the New Jersey Register, in newspapers and on the Department's website. N.J.A.C. 7:5-4.2 describes the application procedure and the required documents for a complete application. Each applicant is notified in writing in regard to approval or denial of an application. N.J.A.C. 7:5-4.3 addresses the required components, and the development and

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execution of the grant agreement.

Social Impact

The Conserve Wildlife Matching Grants Program rules have a positive social impact by providing an opportunity for nonprofit organizations to seek funding for projects that benefit the State's nongame wildlife through education, outreach, research, conservation, species protection or habitat management. Readoption of these rules will continue to provide the opportunity for such beneficial projects to be undertaken, dependent upon available funding.

Economic Impact

The Conserve Wildlife Matching Grants Program rules have a positive economic impact by providing an opportunity for nonprofit organizations to seek funding for projects that benefit the State's nongame wildlife through education, outreach, research, conservation, species protection or habitat management. Readoption of these rules will continue to provide the opportunity for such beneficial projects to be undertaken, dependent upon available funding.

Environmental Impact

The Conserve Wildlife Matching Grants Program rules have a positive environmental impact by providing an opportunity for nonprofit organizations to seek funding for projects that benefit the State's nongame wildlife through education, outreach, research, conservation, species protection or habitat management. Readoption of these rules will continue to provide the opportunity for such beneficial projects to be undertaken, dependent upon available funding.

Federal Standards Statement

Executive Order No. 27(1994) and N.J.S.A. 52:14B et seq. (P.L. 1995, c.65) require State agencies which adopt, readopt or amend State regulations that exceed any Federal standards or requirements to include in the rulemaking document a Federal standards statement or analysis.

The rules proposed for readoption are not promulgated under the authority of, or in order to implement, comply with or participate in any program established under Federal law, Federal standards, or Federal requirements. Accordingly, Executive Order No. 27(1994) and N.J.S.A. 52:14B-1 et seq. do not require a Federal standards analysis.

Jobs Impact

The rules proposed for readoption are not expected to have any impact on the creation or loss of jobs in New Jersey.

Agriculture Industry Impact

The rules proposed for readoption are not expected to have any impact upon the agriculture industry in New Jersey.

Regulatory Flexibility Analysis

In accordance with the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., the Department has determined' that some of the nonprofit entities applying for and receiving grants pursuant to the rules proposed for readoption may be considered "small businesses" as defined by the Act. The Department has determined that while exact compliance costs are difficult to quantify, the rules impose minimal recordkeeping, processing, accounting, consulting, and reporting requirements upon the small businesses. In the case of most nonprofit organizations, submitting grant application packages is a frequent and standardized procedure which is handled by current organization staff. New staff will not be needed to comply with the rules. It is possible that some applicants may incur the expense of utilizing consultants to prepare the grant application package. The Department has determined that the compliance requirements are necessary for the effective tracking and administration of this grants program. Therefore, no exemption for small businesses is provided.

Smart Growth Impact

Executive Order No. 4 (2002) requires State agencies that adopt, amend or repeal State regulations to include in the rulemaking document a Smart Growth Impact statement that describes the impact of the rules on the achievement of smart growth and implementation of the State Development and Redevelopment Plan (State Plan). To the extent that the projects funded under the grant program established by the rules proposed for readoption at N.J.A.C. 7:5 facilitate the conservation and preservation of endangered and nongame wildlife, the rules are

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consistent with the achievement of smart growth and implementation of the State Plan goals for environmental protection.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 7:5.

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